

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA

In re

Case No. 02-12891-DHW
Chapter 7

MICHAEL D. GOODSON
SONYA R. GOODSON,

Debtors.

COLLIER H. ESPY, JR., Trustee,

Plaintiff,

v.

Adv. Proc. No. 03-1026-DHW

MICHAEL D. GOODSON
SONYA R. GOODSON,

Defendants.

MEMORANDUM OPINION

The chapter 7 trustee commenced this adversary proceeding to determine whether the federal and state tax refunds of the debtors for tax year 2002 are property of the bankruptcy estate.

The facts are undisputed. The debtors filed the chapter 7 petition on December 30, 2002. At the meeting of creditors, the trustee learned that the debtors were anticipating refunds for tax year 2002 in an amount which may exceed the debtors' available exemptions. The trustee filed this complaint to determine whether the refunds are property of the estate.

Upon examination of the following legal authority, the court holds that a debtor's contingent interest in a tax refund is property of the estate under 11 U.S.C. § 541. See *Segal v. Rochelle*, 382 U.S. 375 (1966); *Drewes v. Vote (In re Vote)*, 261 B.R. 439 (8th Cir. 2001) (quoting legislative history

to 11 U.S.C. § 541); *Baer v. Jones (In re Montgomery)*, 224 F.3d 1193 (10th Cir. 2000); *Barowsky v. Serelson (In re Barowsky)*, 946 F.2d 1516 (10th Cir. 1991); see also *Johnson, Blakely, Pope, Boker, Ruppel & Burns, P.A. v. Alvarez (In re Alvarez)*, 224 F.3d 1273 (11th Cir. 2000); *Booth v. Vaughan (In re Booth)*, 260 B.R. 281 (6th Cir. 2001).

Therefore, the portion of the 2002 tax refunds of the debtors attributable to the prepetition portion of the 2002 tax year are property of the estate under 11 U.S.C. § 541.

A separate judgment will enter accordingly.

Done this 24th day of June, 2003.

/s/ Dwight H. Williams, Jr.
United States Bankruptcy Judge

c: C. H. Espy, Jr., Trustee
Michael D. Brock, Attorney for Defendants